



Department of Toxic Substances Control

98-16
SFUND RECORDS CTR
2464-00187



Jesse R. Huff, Director
400 P Street, 4th Floor, P.O. Box 806
Sacramento, California 95812-0806

OCT 05 1998

SFUND RECORDS CTR
SDMS # 47816

Pete Wilson
Governor

Ms Michelle Schutz
U.S.E.P.A.
75 Hawthorne Street, SFD-7-2
San Francisco, California 94105

Peter M. Rooney
Secretary for
Environmental
Protection

Dear Ms. Schutz:

Contract No. 98-T1652

The enclosed contract has been approved by the State and should be retained as your record of this agreement.

If you have any questions, please contact me at (916) 323-7918.

Sincerely,

Mary Burt
for Linda Rains
Contract Analyst
Procurements and Business
Services

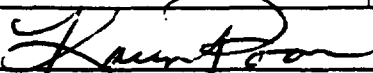
Enclosure

FULLY EXECUTED

Modesto Groundwater Contamination Site
Super Fund Contract

Contract #98-T1652

U.S. Environmental Protection Agency, Region IX

AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 149,100	PROGRAM/CATEGORY (CODE AND TITLE)		FUND TITLE HSCF	
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 0	(OPTIONAL USE)			
TOTAL AMOUNT ENCUMBERED TO DATE \$ 149,100	ITEM 3960-519-710 (a)	CHAPTER 1439	STATUTE 1985	FISCAL YEAR 44
OBJECT OF EXPENDITURE (CODE AND TITLE)		5100-412-11090-100309		
Override w/Approp. Symbol 711, Fund 710, Fund Src. B, Method 2				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.S.A. NO.		B.R. NO.
SIGNATURE OF ACCOUNTING OFFICER 		DATE 9/14/98		

Department of General Services
Use Only

☐ CONTRACTOR ☐ STATE AGENCY ☐ DEPT. OF GEN. SER. ☐ CONTROLLER ☐

MODESTO GROUNDWATER CONTAMINATION SITE

STATE SUPERFUND CONTRACT

1. GENERAL AUTHORITY

This State Superfund Contract ("Contract") is entered into pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 et seq., as amended, the National Oil and Hazardous Substances Pollution Contingency Plan, 55 Fed. Reg. 8666 et seq., 40 CFR Part 300, March 8, 1990, (hereinafter referred to as the "NCP"), and other applicable Federal regulations, including 40 CFR Part 35, Subpart O, and 40 CFR Part 31, and California Health and Safety Code §§ 25300 et seq.

2. PURPOSE

Pursuant to §104(c) of CERCLA, 42 U.S.C. 9604(c), the United States Environmental Protection Agency ("EPA") and the Department of Toxic Substance Control ("DTSC"), on behalf of the State of California (the "State"), do hereby enter into this Contract to document the responsibilities of EPA, as lead agency, and the State, as support agency, during the interim remedial action, as set forth in the Interim Record of Decision and the Scope of Work, at the Modesto Groundwater Contamination Site, CAD 981997752 (the "Site"), including the basic purpose, scope, and administration of this Contract. The Governor of California has designated DTSC to represent the State with respect to EPA-lead response actions, including the interim remedial action at the Site pursuant to 40 CFR § 300.180. The parties acknowledge and agree that this Contract is intended to obtain the required CERCLA assurances pursuant to §§ 104(c)(3), 104(c)(9), and 104(j) of CERCLA, as amended, 42 U.S.C. §§ 9604(c)(3), 9604(c)(9), and 9604(j), and to document State involvement in the remedial action process, pursuant to §121(f) of CERCLA, as amended, 42 U.S.C. § 9621(f), and §300.515(g) of the NCP, 40 C.F.R. § 300.515(g), to the extent applicable. This Contract covers the interim remedial action at the Site, as set forth in the Interim Record of Decision and the Scope of work, and which includes groundwater extraction and treatment and a source control measure, soil vapor extraction and treatment. Attached hereto as Appendix A is a site-specific Statement of Work ("SOW") that indicates the tasks to be performed for this interim remedial action and includes estimated costs.

3. SITE DESCRIPTION

The site is known as the Modesto Groundwater Contamination Site, and is located in Modesto, California. The Site is

described in the Interim Record of Decision (IROD) which is attached hereto as Appendix B.

4. DURATION OF THIS CONTRACT

This Contract shall become effective upon execution by EPA and the State, and approval by the California Department of General Services, and shall remain in effect until the parties determine that the activities described in the SOW are complete or that the final reconciliation of the interim remedial action costs for the Site has been satisfied, whichever is longer. This Contract shall be renegotiated to redefine costs within ten (10) years after the remedy becomes operational and functional; failure to renegotiate or to extend the period for such negotiations would cause this Contract to terminate on August 31, 2010. Notwithstanding the foregoing, the CERCLA operation and maintenance assurance set forth in Paragraph 23 hereof shall remain in effect for the expected life of such actions. EPA and the State may extend the duration of this Contract by amendment pursuant to Paragraph 31 below if additional time is needed to complete the interim remedial action, close out the remedial action or reconcile costs.

If, within 365 calendar days from the effective date of this Contract, EPA has not awarded a construction contract for the work described in the SOW, the State may terminate this contract by providing written notice of termination to EPA not more than 90 days following the one year anniversary date of the contract. In the event that the construction described in the SOW has not been completed within five (5) years following the date of this contract, the State may terminate this Contract by providing written notice of termination to EPA not more than ninety (90) days following the five (5) year anniversary date of the Contract.

5. DESIGNATION OF PRIMARY CONTACTS AND THEIR RESPONSIBILITIES

A. EPA Remedial Project Manager

EPA's designated remedial project manager ("RPM") for this Contract is:

Michelle Schutz
75 Hawthorne Street, M.S. SFD-7-2
San Francisco, CA 94105
(415) 744-2393

EPA may change its designated RPM by letter to the State signatories without amending this Contract. Such notice shall be deemed to incorporate such change into this Contract.

B. State Remedial Project Manager

The State's designated State Project Manager ("SPM") for this Contract is:

Emmanuel Mensah
Department of Toxic Substances Control
Northern California-Central Cleanup Operations Branch
10151 Croydon Way, Suite 3
Sacramento, CA 95827
(916) 255-3704

The State may change its designated SPM by letter to the EPA signatories without amending this Contract. Such notice shall be deemed to incorporate such change into this Contract.

C. EPA RPM and State RPM Consultation on Cost Changes

The RPM, in consultation with the SPM, may make changes to the work outlined in the SOW that do not substantially (i) alter the scope of the interim remedial action at the Site or (ii) increase the total cost of the interim remedial action without affecting the validity of this Contract. The RPM shall obtain approval from the SPM for any change order submitted to EPA for the Site, where the change order would increase the cost of the project by more than \$100,000. The RPM may assume that the SPM has approved a change order if the SPM does not respond to a request for approval within 14 calendar days from receipt of notification by the RPM. Subject to Section 16.B of this Contract, any change to the work that substantially (i) alters the scope of the interim remedial action or (ii) increases the total cost of the interim remedial action, shall require an amendment to this Contract.

6. NEGATION OF AGENCY RELATIONSHIP

Nothing contained in this Contract shall be construed to create an express or implied agency relationship between EPA and the State. EPA and its employees, agents, and contractors are not authorized to represent or act on behalf of the State in any matter relating to the subject matter of this Contract. The State and its employees, agents, and contractors, are not authorized to represent or act on behalf of EPA in any matter relating to this Contract.

7. SITE ACCESS

A. Site Access

EPA shall use its own authority to secure access to the Site and adjacent properties necessary for EPA or its contractors to conduct the interim remedial action undertaken pursuant to the

IROD, including leases, rights-of-way and easements. The State may secure access under its own authority, and may request assistance from EPA as necessary. At EPA's request, the State shall obtain, or assist EPA in obtaining, any permits necessary to conduct the activities described in the IROD.

B. State Site Visits

Insofar as EPA has access to the Site, representatives of the State shall have access to the Site to the same extent as EPA for the purpose of reviewing work in progress, subject to the State's compliance with the Site's safety plan. To the extent feasible, representatives of the State shall coordinate with the RPM prior to visiting the Site.

C. EPA Liability Waiver

EPA shall not be responsible for any harm to any State representative or other person arising out of, or resulting from, any act or omission by the State in the course of an on-site visit.

D. State Liability Waiver

The State shall not be responsible for any harm to any EPA representative or other person arising out of, or resulting from, any act or omission by EPA in the course of an on-site visit.

8. THIRD PARTIES

A. Exclusion of Third Party Benefits

This Contract benefits the State and EPA only and extends no benefit or right to any third party not a signatory hereto.

B. Liability

EPA assumes no liability to third parties with respect to losses due to bodily injury or property damage that exceed the limitations set forth in 28 U.S.C. §§ 1346(b), 2671-2680. To the extent permitted by State law, the State assumes no liability to any third parties with respect to losses due to bodily injury or property damage.

9. PROJECT SCHEDULE

The anticipated date for awarding the contract for work at the Site is November 1998. EPA agrees to notify the State of any change in such anticipated award date. EPA shall furnish to the State a copy of the project schedule prepared by the contractor upon receipt thereof. Any change in the project schedule shall not affect the validity of this Contract.

10. STATE REVIEW

A. State Funding: MSCA Funds

The State, at its own cost and expense, shall furnish the necessary personnel, materials, services, and facilities to perform its responsibilities under the terms of this Contract. In the event that the State is awarded separate funding for this Site under an EPA Management Assistance Multi-Site Cooperative Agreement ("MSCA"), the State may use such monies to furnish the necessary personnel, materials, services, and facilities to perform its responsibilities under the terms of this Contract; provided, however, that MSCA funded in-kind services may not be used to satisfy the State's cost share for the Site.

B. Submission of Comments

EPA, in consultation with the State, shall specify a binding time frame for the State to review and submit comments on matters relating to the implementation of the response action, subject to the time frames set forth in 40 CFR 300.515(h)(3). The RPM shall furnish, or arrange to have furnished, to the SPM in a reasonably timely manner the deliverables as the RPM, in consultation with the SPM, may determine to be appropriate for review and/or comment by the State. Failure by the State to review or submit comments on matters relating to the implementation of the interim response action within the time frames specified by the EPA shall be deemed an election not to review and submit comments thereon. Failure to timely review and comment shall not delay the project schedule. The RPM shall maintain communications with the SPM regarding receipt of comments and responses thereto.

11. RECORDS ACCESS

A. Site Information

At EPA's request, and to the extent allowed by State law, the State shall make available to EPA any information in its possession concerning the Site except privileged or confidential information which is not protected from disclosure under federal law. At the State's request and to the extent allowed by Federal law, EPA shall make available to the State any information in its possession concerning the Site except privileged or confidential information which is not protected from disclosure under state law. EPA and the State shall agree upon a schedule for the reasonable, prompt submission of information concerning the Site.

B. Financial Records

EPA shall arrange to have furnished directly to the State a copy of the monthly progress report supplied by the contract manager summarizing the activities performed in the previous

month and a copy of the payment estimate for the corresponding period. Such monthly progress reports shall serve as documentation of the State's cost share pursuant to Section 16 of this Contract.

C. Confidentiality

EPA shall not disclose information submitted by the State under a claim of confidentiality unless EPA is required to do so by Federal law and has given the State advance notice of its intent to release that information. Absent notice of such claim, EPA may make said information available to the public without further notice. The State shall not disclose information submitted by EPA under a claim of confidentiality unless the State is required to do so by State law and has given EPA advance notice of its intent to release that information. Absent notice of such claim, the State may make said information available to the public without further notice.

12. RECORDS RETENTION

EPA and the State shall maintain all of their respective financial and programmatic records, supporting documents, statistical records, and other records related to the Site for a minimum of ten years following the submission of the final reconciliation of remedial action costs. If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, EPA and the State shall retain such records until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later. Microform copying must be performed in accordance with the technical regulations and records management procedures contained in 36 CFR Part 1230 and EPA Order 2160, respectively.

13. CERCLA REQUIREMENTS

EPA and the State intend to follow all applicable program requirements, including CERCLA, the NCP, and EPA policy and guidance with respect to the interim remedial action as set forth in the Scope of Work, for the Site.

14. OTHER SITE AGREEMENTS

All site-specific agreements concerning the Site, including, but not limited to, state cooperative agreements, state superfund contracts, consent agreements, and administrative orders, are as follows:

<u>Type of Agreement</u>	<u>Signatories</u>	<u>Date</u>
Multi-Site Cooperative	EPA and DTSC	

Agreements ("MSCAs")

9404-02	May 1990-June 1994
9404-03	July 1994-June 1995
9404-04	July 1995-June 1996
9404-05	July 1996-June 1997
9404-06	July 1997-June 1999

Unilateral Administrative Order
Number 90-19

Halfords Cleaners 9/25/90
Steven Lyon
Susan Lyon
Russell Tonda
Diane Tonda
Shantilal Jamnadas

15. CERCLA ASSURANCE: COST SHARE

Sections 104(c)(3) and 104(d)(1) of CERCLA, as amended, 42 U.S.C. § 9604(c)(3) and 9604(d)(1), require that EPA determine whether the Site was publicly or privately operated at the time of the release in order to determine the State's cost share. As the Site was privately operated, the State's cost share is ten percent (10%) of the interim remedial action costs.

16. COST-SHARE CONDITIONS

A. Cost Estimate

The estimated cost of the construction and one-year's operation of the interim remedial action (excluding EPA's indirect and intramural costs) is \$ 1,491,000. This estimate is derived from the pre-final design cost estimate, and includes contingencies for change orders and construction management services. Based on the foregoing, the State's cost share for the construction and one-year's operation of the interim remedial action presently is estimated to be \$ 149,100. The State's cost share is estimated to be approximately \$ 40,000, adjusted to 1998 dollars, for each of the following two years of operation. The estimated cost of the operation and maintenance of the soil vapor extraction system is approximately \$ 90,000, adjusted to 1998 dollars, for each of the second and third years of operation. Within six (6) months following the date on which EPA provides written notice to the State that the EPA has accepted the completed Construction Activities from the construction contractor pursuant to Paragraph 24.D, below, EPA shall provide to the State an updated estimate of the cost of the operation of the interim remedial action. Such estimate shall be the basis for determining the State's preliminary cost share and O&M payments.

B. Payment Terms and Assurance

i. On or before February 28 of each year of this Contract, EPA shall submit to the State an invoice for the State's ten percent (10%) cost share for such portion of the work identified in the SOW as was completed during the applicable billing period, except that EPA shall submit to the State an invoice for the full cost, rather than ten percent, of the operation and maintenance of the soil vapor extraction system, a source control measure, after the soil vapor extraction system is determined to be operational and functional as addressed in paragraphs 22.A. and 24.A, below.

The invoice shall be submitted in duplicate (original plus one copy) to the following, with a copy also to the SPM identified in paragraph 5.B.:

Chief, Contracts and Office Services
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806.

Each invoice shall be accompanied by a cost summary which indicates the name of the site, the billing period, the general contractor that performed the work during such billing period, the identification number assigned to the general contractor, and the total costs incurred during the period for which EPA is billing the State ("Cost Summary"). EPA shall also provide, upon availability, invoices and supporting documentation furnished to EPA by the contracting agency and prime contractor performing the work described in the SOW ("Contractor Documentation"); provided that the EPA RPM may furnish the Contractor Documentation to the SPM during the course of the project and EPA shall be deemed to have satisfied its obligations under this Paragraph. The Cost Summary and the Contractor Documentation hereinafter shall be referred to collectively as the "Cost Documentation." The State shall pay the amount requested by the Cost Summary by April 30 of that year or within sixty (60) days following actual receipt thereof, if the State receives the invoice later than February 28. The State assures payment of its cost share obligation for actual interim remedial action costs at the Site, which shall be settled at reconciliation pursuant to Paragraph 32 below, and which shall not exceed \$ 149,100 for construction and the first year of operation. The State acknowledges that such assurance may require the State to seek additional appropriations to cover the work outlined in the SOW; provided, however, that the State's cost share obligation may only be increased above the estimated cost set forth in Paragraph 16.A. by an amendment to this Contract. The State shall use its best efforts to obtain authorization of funds necessary to meet its assurance to pay its cost share obligation for actual costs of the interim remedial

action at the Site in accordance with State law; notwithstanding the foregoing, nothing contained herein shall be interpreted as a commitment to appropriate, obligate or pay funds in contravention of State law.

ii. Costs incurred by the State to off-set cost-share requirements shall be verified and documented pursuant to the MSCA identified in Paragraph 14 of this Contract. Except as otherwise provided in the MSCA, no in-kind services shall apply to the State's cost-share. Payment terms may be adjusted only by amendment to this Contract, pursuant to paragraph 31 below. An in-kind match may not be applied to the State's cost-share.

iii. All State payments shall be made payable to EPA and sent to the Regional Financial Management Office specified below:

United States Environmental Protection Agency
Financial Management Office
P.O. Box 360863M
Pittsburgh, Pennsylvania 15251
Attn: Superfund Collection Officer

C. State Credit

CERCLA credit may be applied to offset the State's cost-share requirements in this Contract. Credits are limited to site-specific expenses that EPA determines to be reasonable, documented, direct, extra-mural, out-of-pocket expenditures of non-Federal funds that have not been previously applied or reimbursed. The State does not declare credit for costs incurred at the Site.

17. EMERGENCY RESPONSE ACTIVITIES

Nothing in this Contract shall be construed to restrict, impair or otherwise affect the authority of EPA or the State to carry out emergency response activities, including removals. Notwithstanding the foregoing, any emergency response activities at the Site shall not increase the State's financial obligations under this Contract.

18. CERCLA ASSURANCE: 20-YEAR WASTE CAPACITY ASSURANCE

The State has submitted its Waste Capacity Assurance Plan to EPA. EPA's 1995 National Assessment of hazardous waste treatment and disposal capacity shows that there is adequate national capacity through the year 2013, pursuant to 40 CFR 35.6105(b)(3), 50 C.F.R. § 35.6120, and 40 CFR 300.510(e)(1). Subsequent EPA analysis shows that this capacity exists through the year 2018. Pursuant to CERCLA §104(c)(9), the State hereby assures the availability of hazardous waste treatment or disposal facilities for 20 years following the execution of this Contract.

19. CERCLA ASSURANCE: OFF-SITE STORAGE, TREATMENT, OR DISPOSAL

Pursuant to 104(c)(3)(B) and 121(d)(3) of CERCLA, as amended, EPA and the State have determined that off-site treatment, storage, or disposal of hazardous substances is required for the interim remedial action. EPA or its representative, in its invitation for bids for remedial action, shall require bidders to provide adequate capacity for waste disposal at a facility (or facilities) that, at a minimum, meet(s) the requirements of Subtitle C of the Solid Waste Disposal Act. EPA's selection of a contractor shall satisfy such assurance. In the event that EPA is not able to find a bidder to provide adequate capacity for waste disposal, the State shall assist EPA in locating a bidder with an adequate waste disposal capacity.

20. NOTIFICATION OF TRANSFERS OF HAZARDOUS WASTE

EPA or the State must provide written notification prior to the off-site shipment of hazardous waste from the Site to an out-of-State waste management facility, to: (i) The appropriate State environmental official for the State in which the waste management facility is located; and/or (ii) the appropriate Indian Tribal official who has jurisdictional authority in the area where the waste management facility is located.

21. CERCLA ASSURANCE: REAL PROPERTY ACQUISITION

The implementation of the IROD may require the acquisition of an interest in real property.

Pursuant to §104(j) of CERCLA, as amended, 42 U.S.C. § 9604(j), EPA shall, if necessary, acquire the following interest in real property: easement(s) to construct and/or operate the groundwater and soil vapor extraction and treatment systems, consistent therewith; and the State shall accept the transfer of such interest following completion of the remedial action. In the event that the State obtains an interest in real property in connection with the Site and in the event that the State transfers any such real property to a third party, the State shall ensure that such real property remains subject to all institutional controls.

22. REMEDY SHAKEDOWN

A. Operational and Functional Period

The State has not elected to take the lead upon completion of construction pursuant to a state cooperative agreement. Pursuant to 40 CFR 300.435(f), EPA shall conduct activities necessary to ensure that the interim remedial measures described in the SOW are operational and functional for a period up to one

year after construction is complete, or until EPA and the State determine that the remedy is functioning properly and performing as designed, whichever is earlier. For this purpose, construction will be considered complete after the completion of the final inspection, as described in paragraph 24.B., below. EPA and the State may extend the one-year time period by amending this Contract pursuant to paragraph 31 below. The State shall be responsible for its ten (10) percent cost-share during such time.

i. Pursuant to Section 104(c)(6) of CERCLA, 42 U.S.C. §9604(c)(6), and 40 CFR 300.435(f) of the NCP, and the Preamble to the NCP, 55 Fed. Reg. 8738-39 (Mar. 3, 1990), EPA is authorized to cost share in the restoration of groundwater, and, at its discretion, in certain interim response actions that are necessary and desirable in order to control or prevent the further spread of contamination while EPA is deciding upon a final restoration remedy for the site, for a period of up to ten years after such interim response actions become operational and functional or until the groundwater restoration achieves the level of protectiveness defined in the ROD, whichever is earlier. This authorization includes the groundwater extraction and treatment system described in the SOW for this Site, given that recent data suggest that groundwater restoration may eventually be possible and given the other unique circumstances at the Site. The soil vapor extraction system, as a source control measure, is not subject to this ten-year period of federal cost sharing. For purposes of this Contract, and pursuant to 40 CFR 300.435(f), the interim remedial action shall be deemed operational and functional one year after construction is complete, or when EPA and the State determine that the interim remedial action is functioning properly and performing as designed, whichever is earlier. EPA and the State may extend the one-year time period by amending this Contract pursuant to paragraph 31 below.

ii. As the State has elected not to take the lead for the interim remedial action, EPA shall conduct such action. The State assures payment of its cost share obligation for the actual cost of the interim remedial action, subject to Section 16(b)(i) of this Contract. The ten-year time period shall adhere to the regulatory provisions set forth in 40 CFR 300.435(f)(3) and 40 CFR 300.435(f)(4) of the NCP. EPA's issuance, during or after the ten-year time period, of a final ROD shall not cause the re-commencement of the ten-year time period provided for herein with respect to the operation and maintenance of the groundwater extraction and treatment system provided for in the SOW. This provision shall survive the termination, expiration, or conclusion of this Contract. The State shall use best efforts to secure and maintain authorization of funds necessary to undertake its groundwater restoration cost share obligations hereunder; notwithstanding the foregoing, nothing contained herein shall be interpreted as a commitment to appropriate, obligate or pay funds in contravention of State law.

23. CERCLA ASSURANCE: OPERATION AND MAINTENANCE

The State hereby assures that the operation and maintenance ("O&M") provided under this Contract for the implemented interim remedial action, including the soil vapor extraction source control measure, at the Site, commencing once the interim remedial action is operational and functional pursuant to paragraph 22.A., will remain in effect for the expected life of such remedial action pursuant to Section 104(c)(3)(A) of CERCLA, as amended. The State shall be responsible for one-hundred percent (100%) of O&M for the soil vapor extraction measure immediately after that system is operational and functional pursuant to paragraph 22.A. In addition, the State assures that institutional controls will be monitored and retained as part of the State's O&M obligations. The State shall use best efforts to secure and maintain authorization of funds necessary to undertake its O&M obligations hereunder; notwithstanding the foregoing, nothing contained herein shall be interpreted as a commitment to appropriate, obligate or pay funds in contravention of State law.

24. JOINT INSPECTION OF THE REMEDY

A. Prefinal Inspection

The RPM, in consultation with the SPM, shall conduct a prefinal inspection upon completion of the construction work to determine whether there are outstanding items which remain to be completed or corrected. The RPM shall provide such notice to the SPM as shall reasonably afford the SPM an opportunity to accompany the RPM on such inspection. The RPM shall prepare a prefinal inspection report summarizing any such outstanding items and shall furnish a copy of such report to the SPM.

B. Final Inspection

The RPM, in consultation with the SPM, shall conduct a final inspection upon completion of any outstanding construction items for the remedial action at the Site. The RPM shall provide such notice to the SPM as shall reasonably afford the SPM an opportunity to accompany the RPM on such inspection. The final inspection will consist of a walk-through inspection of the project site, and will focus on the outstanding construction items identified in the prefinal inspection. If the RPM determines that any items remain outstanding or uncorrected, the inspection shall be considered a prefinal inspection and the RPM shall prepare another prefinal inspection report.

C. Interim Remedial Action Report

Upon satisfactory completion of the final inspection, EPA will provide to the State a copy of the interim remedial action report for the Site, which is the official record of remedial

activities at the Site.

D. Acceptance of the Work

EPA, in consultation with the State, shall determine that the activities described in the SOW have been completed. The EPA Regional Administrator (or delegate) shall provide written notice to the State that EPA has accepted the completed project from the construction contractor.

E. Acceptance of the Remedy

EPA and the State shall review the interim remedial action report. The RPM shall coordinate with the SPM to obtain the State's concurrence that the remedy is complete and performing adequately. Enforcement actions and other necessary activities may proceed independent of completion of construction and reconciliation of costs; NPL deletion may proceed independent of reconciliation of costs.

25. NPL DELETION

EPA shall consult and provide the State with the criteria used to determine the effectiveness of the remedy as well as the rationale for determining completion of the remedy, and for deleting the Site from the National Priorities List (NPL).

26. RESPONSIBLE PARTY ACTIVITIES

If at any time during the period of this Contract a responsible party comes forward to perform any work covered by this Contract, EPA and the State shall amend or terminate this Contract.

27. ENFORCEMENT

Nothing contained in this Contract shall waive, or be deemed to waive, EPA's right to bring an action against any person or persons for liability under §§ 106 or 107 of CERCLA, or any other statutory provision or common law. Nothing contained in this Contract shall waive, or be deemed to waive, the State's right to bring an action against any person or persons for liability under the California Health and Safety Code, or any other statutory provision or common law.

28. LITIGATION AND COST RECOVERY

EPA and the State may be entitled to assert claims against a third party (herein referred to as a "potentially responsible party" or "PRP") for reimbursement of any services, materials, monies or other items of value expended by EPA or the State for Fund-financed response activities.

29. ISSUE RESOLUTION

Any disagreements arising under this Contract shall be resolved to the extent possible by the RPM and the SPM. The RPM and the SPM, in consultation with their respective supervisors, shall use their best efforts to resolve disagreements informally.

30. SANCTIONS FOR FAILURE TO COMPLY

If either party fails to comply with the terms of this Contract, and if the parties have been unable to resolve the matter informally among themselves, then either party may proceed as set forth in 40 C.F.R. Section 35.6805(o) (1990), which is incorporated herein by reference as if fully stated herein.

31. AMENDMENT

EPA and the State may amend this Contract, in writing, for reasons which include, but are not limited to, cost revisions or modifications of the source control measure, or the adoption of a final record of decision.

32. RECONCILIATION PROVISION

A. Within two years following the completion of construction required in the SOW, EPA and the State shall reconcile all costs of construction. At the time that the construction costs are reconciled, the State may ask the EPA to furnish to the State documents supporting costs incurred by EPA. The reconciliation of the construction costs shall not affect the duration of this Contract.

B. Subject to Paragraph 4 hereof, this Contract shall remain in effect until the financial settlement of project costs and final reconciliation of response costs (including change orders, claims, overpayments, reimbursements, etc.) have been completed. Pursuant to 40 CFR 35.6805(k), completion of final reconciliation shall mean that EPA and the State have satisfied their cost-share requirements specified in paragraphs 15 and 16 above. EPA will not use overpayments by the State to satisfy obligations at another site. In the event that the payment terms above do not cover the cost of the interim remedial action, EPA will bill the State for the State cost share. Final reconciliation of interim remedial action costs by EPA shall follow acceptance of the remedy by both EPA and the State and is not contingent upon deletion of the Site from the NPL. At the time of such reconciliation, the State may request the EPA furnish to the State documents supporting costs incurred by EPA. Contractual resolutions and final audit determinations that impact the Fund financed remedial action may require an amendment to this Contract pursuant to Paragraph 31.

33. CONCLUSION OF THE CONTRACT

Subject to Paragraph 4 hereof, this Contract shall conclude when all of the following requirements have been met: (i) response activities at the Site have been satisfactorily completed and payments have been made as specified under paragraphs 15 and 16 which address cost share; (ii) the Financial Management Officer has a final accounting of all project costs, including change orders and contractor claims, pursuant to paragraph 32 above; and (iii) the State has submitted all of its cost share payments to EPA, has undertaken responsibility for O&M, and if applicable, has accepted all interest in real property pursuant to 40 CFR 35.6805(I)(4).

34. SEVERABILITY

If any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Contract and such invalidity, illegality or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

35. DRUG FREE WORKPLACE

EPA acknowledges that it is subject to the Drug Free Workplace Act of 1988, as implemented by 40 C.F.R. §§ 23.500-23.506.

36. AUTHORITY

Each undersigned representative of the parties certifies that he or she is fully authorized to enter into the terms and conditions of this Contract and to legally bind such party to this Contract.

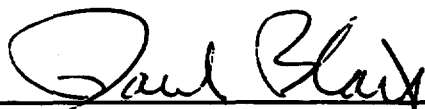
In witness whereof, the parties hereto have executed this Contract in five (5) copies, each of which shall be deemed an original.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Keith Takata, Director
Hazardous Waste Management Division
U.S. Environmental Protection Agency, Region IX

STATE OF CALIFORNIA

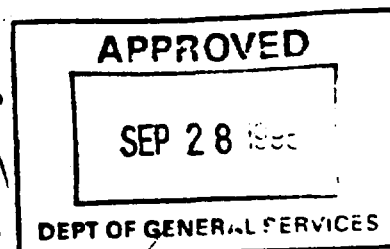
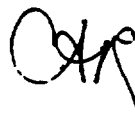


Paul Blais, Deputy Director
Department of Toxic Substances Control
California Environmental Protection Agency



Marvin Philo, Chief
Office of Business Services
Department of Toxic Substances Control
California Environmental Protection Agency

Department of General
Services Use Only



Appendix A

Statement of Work

for the

Modesto Groundwater Contamination Site

According to the Interim Record of Decision (IROD) for the Modesto Groundwater Contamination Site, the interim remedial action for groundwater will be conducted to contain the highest groundwater contaminant levels at the source. The primary components of the selected remedy include groundwater extraction in the area of highest groundwater contamination (the source area), groundwater treatment by airstripping with carbon adsorption, discharge of treated groundwater, and soil vapor extraction (SVE) followed by carbon adsorption to minimize loading of contaminants in the groundwater and to capture soil vapor entering the vadose zone from the groundwater. Groundwater will also be treated with an ion exchange unit as necessary to remove naturally occurring uranium prior to discharge.

An interim, rather than final Record of Decision (ROD) was developed because of uncertainties over whether any available groundwater remedial approach is capable of achieving groundwater cleanup standards throughout the plume, or what standards could be met. Downgradient monitoring will provide valuable information to determine what future actions are appropriate. During the interim remedial action, the downgradient edge of the groundwater plume will be monitored to determine if PCE beyond the source area capture zone of the extraction well will be addressed through natural attenuation. EPA will select a final remedy that will achieve appropriate cleanup levels or demonstrate that a waiver of these standards is justified.

Key project elements for the interim remedial action include mobilization, groundwater treatment system requirements, soil vapor extraction requirements, and Operation and Maintenance (O&M). Mobilization consists of reviewing project plans (e.g., Shop Drawings, subcontractor Operation Plan, Subcontractor Site Safety Plan), arranging site access, conducting utility clearances, etc.

The groundwater treatment system requires the in-situ containment of groundwater contaminated with PCE and naturally occurring uranium. The influent to the groundwater treatment system will initially undergo physical separation via an air stripper. The air stripper will generate three phases of effluent: air, water, and scale. The effluent air containing the VOCs removed from the groundwater will require additional treatment (i.e., vapor phase GAC). The effluent water will contain uranium which will be removed using ion exchange technology, and trace VOCs which will be removed via GAC. The scale, which will likely be deposited on the air stripper trays, will require manual labor to remove.

The SVE system requires the extraction and treatment of soil vapors containing VOCs. The extraction process will use dedicated SVE wells, a blower, and soil vapor treatment to remove

VOCs prior to discharge to the atmosphere. Initially, only one SVE well will be used; through the course of the SVE source control measure the need for additional SVE wells will be evaluated.

O&M activities associated with the groundwater treatment system components will be performed in accordance with the manufacturer's requirements. Additional O&M functions associated with the groundwater treatment system include sampling and analysis of the influent and effluent streams, carbon replacement, ion exchange resin replacement, and waste disposal. O&M activities associated with the SVE system include sampling and analysis of the effluent streams, carbon replacement, and waste disposal.

Capital costs for the interim remedial action can be separated into equipment and material costs for the groundwater treatment system (approximately \$260,000), equipment and material costs for the SVE system (approximately \$60,000), other equipment and material costs (approximately \$55,000), labor costs (approximately \$170,000), and engineering costs (approximately \$325,000). These estimates are rounded to the nearest \$5,000.

First year operating costs can be separated into equipment and material costs for the groundwater treatment system (approximately \$190,000), SVE equipment and material costs (approximately \$290,000), and labor costs (approximately \$160,000). These estimates are rounded to the nearest \$5,000.

Second and third year O&M costs can be separated into the same categories as the first year operating costs. Approximate costs for each of the second and third years in these categories are \$195,000, \$90,000 and \$100,000, respectively. These estimates are adjusted to 1998 dollars assuming 5% interest, and rounded to the nearest \$5,000.

O&M costs for years four through ten can be separated into equipment and material costs for the groundwater treatment system and labor costs; it is assumed that the SVE system will not be cost-effective after the third year. Approximate costs for each of years four through ten in these categories are \$175,000 and \$65,000, respectively. These estimates are adjusted to 1998 dollars assuming 5% interest, and rounded to the nearest \$5,000.